

Exhibit B

UNITED STATES BANKRUPTCY COURT

Southern District of New York

In re Bernard L. Madoff Investment Securities LLC
Debtor

Case No. Adv. Pro. No. 08-01789 (SMB)

Chapter _____

SUBPOENA FOR RULE 2004 EXAMINATION

To: Khronos LLC, 41 Madison Avenue, 31st Floor, New York NY 10010
(Name of person to whom the subpoena is directed)

☐ **Testimony:** **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure. A copy of the court order authorizing the examination is attached.

PLACE Baker & Hostetler LLP 45 Rockefeller Plaza New York, NY 10111 Attn: Anat Maytal, Esq.	DATE AND TIME July 24, 2020, at 10 a.m.
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The examination will be recorded by this method: _____

☒ **Production:** You, or your representatives, must also bring with you to the examination the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

Documents described in Attachment A to this subpoena

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: July 13, 2020

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk



Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party)
Irving Picard, SIPA Trustee, who issues or requests this subpoena, are:

Anat Maytal, Esq. Baker & Hostetler LLP, 45 Rockefeller Plaza, New York, NY 10111

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (*name of individual and title, if any*): _____
on (*date*) _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____
_____ on (*date*) _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

(A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A
TO SUBPOENA TO KHRONOS LLC

DEFINITIONS

1. All definitions set forth in United States District Court for the Southern District of New York Local Rule 26.3, as adopted by United States Bankruptcy Court for the Southern District of New York's Rule 7026-1, are hereby incorporated by reference are as follows:

Communication. The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

Concerning. The term "concerning" means relating to, referring to, describing, evidencing, or constituting.

Document. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of the term "documents or electronically stored information" in Fed. R. Civ. P. 34(a)(1)(A). A draft or non-identical copy is a separate document within the meaning of this term.

Identify (with respect to documents). When referring to documents, "to identify" means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s) and recipient(s).

Identify (with respect to persons). When referring to a person, "to identify" means to give, to the extent known, the person's full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

Parties. The terms "plaintiff" and "defendant" as well as a party's full or abbreviated name or a pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

Person. The term "person" is defined as any natural person or any legal entity, including, without limitation, any business or governmental entity or association.

2. "BLMIS" means Bernard L. Madoff Investment Securities LLC, Madoff Securities International Ltd., Madoff Securities International LLC, Bernard L. Madoff, Ruth Madoff, and all affiliated Persons and entities, including, but not limited to, any officers,

directors, agents, representatives, employees, partners, parent companies, subsidiaries, predecessor or successor and related entities, and affiliates of the above specifically identified Persons and entities.

3. “Initial Transfer” means any and all Transfers made by BLMIS or any Person acting on behalf of BLMIS to Legacy Capital (as defined below) through BLMIS Account No. 1FR071 between December 11, 2006 and December 11, 2008.

4. “Legacy Capital” means Legacy Capital, Ltd., including without limitation its current and former parent companies, subsidiaries, divisions, officers, directors, principals, partners, managers, members, shareholders, agents, representatives, employees, attorneys, nominees, servants, predecessors, successors, and affiliates.

5. “Montpellier International” means Montpellier International Ltd., Montpellier International LDC, Montpellier International Limited, and Montpellier International – Medallion Ltd., and all affiliated Persons and entities, including, but not limited to, any officers, directors, agents, representatives, employees, partners, parent companies, subsidiaries, predecessor or successor and related entities, and affiliates of the above specifically identified Persons and entities.

6. “Prince” means Prince Assets LDC and/or Prince Assets Limited, and all affiliated Persons and entities, including, but not limited to, any officers, directors, agents, representatives, employees, partners, parent companies, subsidiaries, predecessor or successor and related entities, and affiliates of the above specifically identified Persons and entities.

7. “Subsequent Transfer” means any Transfer or Transfers (as defined below) of an Initial Transfer conveyed by Legacy Capital to another Person or entity.

8. “Transfer” or “Transfers” shall conform to the meaning set forth under the Bankruptcy Code, 11 U.S.C. § 101(54): (a) the creation of a lien; (b) the retention of title as a security interest; (c) the foreclosure of a debtor’s equity redemption; or (d) each mode, direct and indirect, absolute or conditional, voluntary or involuntary, of disposing of or departing with—(i) property; or (ii) an interest in property.

9. “You” and “Your” means Khronos LLC and all affiliated Persons and entities, including, but not limited to, any officers, directors, agents, representatives, employees, partners, parent companies, subsidiaries, predecessor or successor and related entities, and affiliates of the above specifically identified Persons and entities.

10. For all purposes herein, spelling, grammar, syntax, abbreviations, idioms, and proper nouns shall be construed and interpreted according to their context to give proper meaning and consistency to the Requests for Production of Documents set forth herein (the “Request” or “Requests”).

11. Reference to any Person that is not a natural Person and is not otherwise defined herein refers to and includes any parent, subsidiary, affiliate, division, branch, agency, representative office, predecessor, successor, principal, member, director, officer, shareholder, manager, employee, attorney-in-fact, attorney, nominee, agent, or representative of such Person.

INSTRUCTIONS

Federal Rules of Civil Procedure 26-37, made applicable to this proceeding pursuant to Bankruptcy Rules 7026-7037, are hereby incorporated by reference and apply to each of the following instructions:

12. All Documents shall be identified by the Request(s) to which they are primarily responsive or be produced as they are maintained in the usual course of business.

13. Produce all Documents and all other materials described below in Your actual or constructive possession, custody, or control, including in the possession, custody, or control of a current or former employee, that were created during or that relate or refer to the Applicable Period, wherever those Documents and materials are maintained, including on personal computers, PDAs, wireless devices, or web-based email systems such as Gmail, Yahoo, etc.

14. Produce the original or duplicate, as such terms are defined by Rule 1001 of the Federal Rules of Evidence, of each Document requested together with all non-identical copies and drafts of that Document. If a duplicate is produced, it should be legible and bound or stapled in the same manner as the original.

15. Documents not otherwise responsive to these Requests should be produced: (i) if such Documents mention, discuss, refer to, explain, or concern one or more Documents that are called for by these Requests; (ii) if such Documents are attached to, enclosed with, or accompany Documents called for by these Requests; or (iii) if such Documents constitute routing slips, transmittal memoranda or letters, comments, evaluations, or similar materials.

16. Documents attached to each other should not be separated; separate Documents should not be attached to each other.

17. To the extent a Document sought herein was at one time, but is no longer, in your actual or constructive possession, custody, or control, state whether it: (i) is missing or lost; (ii) has been destroyed; (iii) has been transferred to others; and/or (iv) has been otherwise disposed of. In each instance, Identify the Document, state the time period during which it was maintained, state the circumstance and date surrounding authorization for such disposition, Identify each Person having knowledge of the circumstances of the disposition, and Identify each Person who had possession, custody, or control of the Document. Documents prepared prior to,

but which relate or refer to, the time period covered by these Requests are to be identified and produced.

FORMAT OF PRODUCTION

1. All Documents produced to the Trustee shall be provided in either native file (“native”) or single-page 300 dpi-resolution group IV TIF format (“tiff”) format as specified below, along with appropriately formatted industry-standard database load files, and accompanied by true and correct copies or representations of unaltered attendant metadata.

Where Documents are produced in tiff format, each Document shall be produced along with a multi-page, Document-level searchable text file (“searchable text”) as rendered by an industry-standard text extraction program in the case of electronic originals, or by an industry-standard Optical Character Recognition (“ocr”) program in the case of scanned paper Documents.

Searchable text of Documents shall not be produced as fielded data within the “.dat file” as described below.

2. Database load files and production media structure: Database load files shall consist of: (i) a comma-delimited values (“.dat”) file containing: production Document identifier information, data designed to preserve “parent and child” relationships within Document “families,” reasonably accessible and properly preserved metadata (or bibliographic coding in the case of paper Documents), custodian or Document source information; and (ii) an Opticon (“.opt”) file to facilitate the loading of tiff images. Load files should be provided in a root-level folder named “Data,” images shall be provided within a root level “Images” folder containing reasonably structured subfolders, and searchable text files shall be provided in a single root-level “Text” folder. If any of the Documents produced in response to these requests are designated as confidential pursuant to the Litigation Protective Order, in addition to marking the Documents

with the brand “CONFIDENTIAL” or branding the media with the word “CONFIDENTIAL,” also include a confidential field within the load file, with a “yes” or “no” indicating whether the Document has been designated as confidential, as well as native file loading/linking information (where applicable).

3. Electronic Documents and data, generally: Documents and other responsive data or materials created, stored, or displayed on electronic or electro-magnetic media shall be produced in the order in which the Documents are or were stored in the ordinary course of business, including all reasonably accessible metadata, custodian or Document source information, and searchable text as to allow the Trustee, through a reasonable and modest effort, to fairly, accurately, and completely access, search, display, comprehend, and assess the Document’s true and original content.

4. Emails and attachments, and other email account-related Documents: All Documents and accompanying metadata created and/or stored in the ordinary course of business within commercial, off-the-shelf email systems including but not limited to Microsoft Exchange™, Lotus Notes™, or Novell Groupwise™ shall be produced in tiff format, accompanying metadata, and searchable text files or, alternately, in a format that fairly, accurately, and completely represents each Document in such a manner as to make the Document(s) reasonably useable, manageable, and comprehensible by the Trustee.

5. Documents and data created or stored in or by structured electronic databases: With the exclusion of email and email account-related Documents and data, all Documents and accompanying metadata created and/or stored in structured electronic databases or files shall be produced in a format that enables the Trustee to reasonably manage and import those Documents into a useable, coherent database. Documents must be accompanied with reasonably detailed

documentation explaining each Document's content and format, including but not limited to data dictionaries and diagrams. Some acceptable formats, if and only if provided with definitive file(s), table(s), and field level schemas include:

- a. XML format file(s);
- b. Microsoft SQL database(s);
- c. Access database(s); and/or
- d. fixed or variable length ASCII delimited files.

6. Spreadsheets, multimedia, and non-standard file types: All Documents generated or stored in software such as Microsoft Excel or other commercially available spreadsheet programs, as well as any multimedia files such as audio or video, shall be produced in their native format, along with an accompanying placeholder image in tiff format indicating a native file has been produced. A "Nativelink" entry shall be included in the .dat load file indicating the relative file path to each native file on the production media. To the extent the party has other file types that do not readily or easily and accurately convert to tiff and searchable text, the party may elect to produce those files in native format subject to the other requirements listed herein. Native files may be produced within a separate root-level folder structure on deliverable media entitled "Natives."

7. "Other" electronic Documents: All other Documents and accompanying metadata and embedded data created or stored in unstructured files generated by commercially available software systems (excluding emails, structured electronic databases, spreadsheets, or multimedia) such as, but not limited to, word processing files (such as Microsoft Word), image

files (such as Adobe .pdf files and other formats), and text files shall be produced in tiff and searchable text format in the order the files are or were stored in the ordinary course of business.

8. Paper Documents: Documents originally created or stored on paper shall be produced in tiff format. Relationships between Documents shall be identified within the .dat file utilizing Document identifier numbers to express parent Document/child attachment boundaries, folder boundaries, and other groupings. In addition, the searchable text of each Document shall be provided as a multi-page text file as provided for by these requests.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Documents and Communications concerning any Subsequent Transfer.
2. Documents concerning money, property, or anything else of value received by Prince from any Person in exchange for any Subsequent Transfer.
3. Documents concerning money, property, or anything else of value received by Montpellier International from any Person in exchange for any Subsequent Transfer.
4. Documents or Communications concerning any procedures, guidelines, and/or policies for investing, redeeming, or monitoring BLMIS investments through Legacy Capital, Montpellier International or Prince.
5. Documents concerning, or Communications with, Montpellier International or Prince in connection with BLMIS or Legacy Capital.
6. Documents concerning Prince's liquidation, including without limitation documents sufficient to identify assets distributed to its partners, shareholders, or agents upon liquidation, and the value of any such distributions.

7. Documents concerning Montpellier International's liquidation, including without limitation documents sufficient to identify assets distributed to its partners, shareholders, or agents upon liquidation, and the value of any such distributions.

8. Documents concerning any insurance agreements relating to Montpellier International or Prince.

9. Documents sufficient to Identify each person or entity having an interest (whether equity, security, debt, or other legal interest) in Prince, including without limitation partners, shareholders, or agents, specifying as to each the title and relationship to Prince and the value of the interest held by such person or entity in Prince.

10. Documents sufficient to Identify each person or entity having an interest (whether equity, security, debt, or other legal interest) in Montpellier International, including without limitation partners, shareholders, or agents, specifying as to each the title and relationship to Montpellier International and the value of the interest held by such person or entity in Montpellier International.

11. Documents concerning all assets or property owned by Prince in whole or in part, including without limitation: (i) all checking and savings accounts; (ii) all balance sheets, profit and loss statements and income statements; (iii) stocks, bonds, trusts, and other securities, including cryptocurrency, in the name of or for the benefit of Prince; (iv) accounts receivable; (v) inventory; (vi) judgments held by Prince against third parties; (vii) rents receivable; and (viii) intellectual property.

12. Documents concerning all assets or property owned by Montpellier International in whole or in part, including without limitation: (i) all checking and savings accounts; (ii) all balance sheets, profit and loss statements and income statements; (iii) stocks, bonds, trusts, and

other securities, including cryptocurrency, in the name of or for the benefit of Montpellier International; (iv) accounts receivable; (v) inventory; (vi) judgments held by Montpellier International against third parties; (vii) rents receivable; and (viii) intellectual property.

13. Documents sufficient to identify Prince's beneficial owners.

14. Documents sufficient to identify Montpellier International's beneficial owners.

15. Documents concerning Prince's credit facility agreement with Santander Bank & Trust Limited dated June 27, 2005 and the related assignment to Banco Santander (Suisse) S.A. dated June 1, 2010.

16. Documents concerning the pledge agreement dated October 16, 2009 between Auber Investments Limited and Santander Bank & Trust Limited relating to Prince's credit facility agreement.

17. Documents concerning the relationship between Auber Investments Limited and Prince.